II Taxation

Taxation

By KPMG's Kim Jarrett

KPMG specialises in audit, tax and advisory services. It has close to 900 professionals and 72 partners who work with a wide range of New Zealand enterprises, and has offices in Auckland, Wellington, Christchurch, Hamilton, Tauranga and Timaru. Globally, KPMG operates in 156 countries. **www.kpmg.com/nz**

Going offshore

Going offshore is a big step for any business; one with considerable prospective benefits but also one accompanied with potentially latent risks. One of those risks is likely to be tax. Specifically, expanding outside New Zealand opens up an array of tax considerations that domestic firms do not need to concern themselves with. We outline below the key areas of tax that likely come onto the radar for a firm operating outside New Zealand.

Looking after your team

Human capital is valuable and typically hard to replace; particularly so in the case of those people you entrust to take your business overseas. It is therefore critical that those people understand the tax implications of working offshore. Essentially, countries typically impose tax on individuals on the basis of tax residency or the source of the income. Therefore, individuals need to have a clear understanding of what jurisdictions will look to tax each of their sources of income.

Where multiple jurisdictions may look to tax the same source of income, avenues to mitigate double taxation (such as a relevant double tax agreement) should be explored. The failure to do so can see your employees landed with a hefty tax bill.

New Zealand Inland Revenue has recently revisited its views of the circumstances whereby an individual would cease to be a New Zealand tax resident (and therefore not be subject to tax in New Zealand on their worldwide income). Broadly speaking, the criteria for losing New Zealand tax residency for an individual has become harder such that an employee leaving New Zealand who may have historically been comfortable that they would cease to be a New Zealand tax resident may now find themselves in a position where Inland Revenue asserts that they will remain a New Zealand tax resident.

What's your offshore footprint?

As you might guess, if you are doing business in a foreign country the local tax authority will typically look at whether they can collect income tax from your company. How this may happen in practice will depend on whether New Zealand has a Double Tax Agreement (DTA) with the relevant jurisdiction.

Where New Zealand does not have a DTA with the other country, you will be at the mercy of the local legislation and how the local tax authority chooses to interpret this.

Unlike New Zealand, there are instances in some overseas jurisdictions where local legislation doesn't fully capture local practices and there may even be cases where the practices of the local tax authority vary from one official to the next.

For countries with which New Zealand has a DTA (and New Zealand has a DTA now with most of our major trading partners) one way in which the overseas tax authority may assert their taxing right is via the concept of a Permanent Establishment ("PE"). A PE is effectively a taxable presence in their jurisdiction that can occur without a local company being incorporated or formal branch being established.

The definition of a PE varies between countries but can often include arrangements such as a place of management, a branch office or workshop. It is, however, not always necessary to have a 'fixed place' of business for a PE to arise. For example, in some circumstances a PE can arise from performing ongoing services in a country or having an agent negotiating contracts on your behalf. Due to the fairly broad definition of a PE and the fact that New Zealand

new zealand export and trade handbook 2016

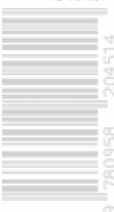
To read the full chapter of the
Export and Trade Handbook 2016
visit our online store at:
www.exportandtrade.co.nz/handbook2016

email your details to:
subs@adrenalin.co.nz

or call our office at: **(09) 478 4771**

and order your personal hard copy today!

A digital copy of the
Export and Trade Handbook 2016
is available at Zinio:
www.exportandtrade.co.nz/zinio



Sponsored by